

### REMARKS

In the last Office Action, claims 1-9 were allowed, and claims 10-16 and 20 were rejected under 35 U.S.C. §112, first paragraph, as being based on a non-enabling disclosure. Claims 17-19 were objected to as being dependent upon a rejected base claim and were otherwise indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 17 was objected to because of a typographical error, and correction was required.

Applicants and applicants' attorney acknowledge with appreciation the allowance of claims 1-9 and the indication of allowability concerning claims 17-19.

In accordance with this amendment, independent claim 10 has been amended to overcome the Section 112, first paragraph, rejection, and dependent claims 13, 17, 18 and 20 have been amended to be consistent with amended base claim 10.

In the statement of rejection, the Examiner contends that the specification is enabling for irradiating and scanning the probe tip while the cantilever is in a tilted state but does not provide enablement for irradiating and scanning the probe tip with the focused particle beam directed in a direction that is inclined relative to the cantilever. Stated otherwise, the Examiner contends that inclining the

cantilever is enabled by the specification whereas inclining the focused particle beam is not enabled by the specification.

To overcome the Section 112, first paragraph, rejection, independent claim 10 has been amended to specify that the irradiating and scanning step is carried out while the cantilever is in a tilted state so that the irradiation direction of the focused particle beam is inclined relative to the surface of the cantilever to obtain an image of the probe tip. As acknowledged by the Examiner, this subject matter is enabled by the specification and is recited in allowable dependent claim 17.

Thus independent claim 10 has been amended to incorporate from dependent claim 17 the subject matter that the irradiating and scanning of the probe tip with a focused particle beam is carried out while the cantilever is in a tilted state so that the irradiation direction of the focused particle beam is inclined relative to the surface of the cantilever to obtain an image of the probe tip. As amended, claim 10 is fully supported by the specification and is in full compliance with 35 U.S.C. §112, first paragraph.

Dependent claim 13 has been amended to delete the word "flat" in the recitation "flat surface of the cantilever" because there is no antecedence for the word "flat" in claims 10 or 11. As amended, claim 13 is consistent with claim 11/10.

Dependent claim 17 has been amended to delete therefrom the subject matter that has been incorporated into base claim 10. The deleted subject matter includes the misspelled word "inclues" and thus amended claim 10 avoids the objection noted in the Office Action.

Dependent claim 18 has been amended to delete the word "flat" since there is no antecedent basis for this word. Claim 18 depends on claim 17/15/11/10, none of which recite that the cantilever has a flat surface.

Claim 20 has been amended to overcome the Section 112, first paragraph, rejection and, as amended, recites that the forming step is carried out with the cantilever in the tilted state so that the irradiating direction of the focused particle beam is inclined relative to the cantilever surface. The term "cantilever flat surface" has been changed to --cantilever surface-- since, as noted above, there is no antecedent basis in base claim 10 for the word flat.

Applicants respectfully submit that the minor amendments made herein do not raise any new issue that would required further search or consideration. Instead claims 10 and 20 have been amended to overcome the non-enablement rejection by specifying that the cantilever, rather than the focused particle beam, is in a tilted state; claims 13, 18 and 20 have been amended to delete "flat" to overcome a lack of

antecedence; and claim 17 has been amended to be consistent with amended base claim 10. None of the claim amendments raises a new issue, and the amendments, on their face, overcome the Section 112, first paragraph, rejection and place the application in allowable form.

In view of the foregoing, applicants respectfully submit that the application is now in allowable form. In the event the Examiner determines that something further need be done to place the application in condition for allowance, it is respectfully requested that the Examiner telephone the undersigned attorney to resolve any outstanding issue so that the application may proceed to allowance.

In view of the foregoing, favorable reconsideration and entry of this amendment together with allowance of the application are respectfully requested.

Respectfully submitted,

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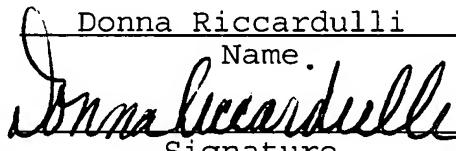
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MAILING CERTIFICATE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Mail Stop AF, COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Donna Riccardulli

Name.

  
Signature

SEPTEMBER 12, 2008

Date